

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG

**ALL AMERICAN CHECK CASHING, INC.;
MID-STATE FINANCE, INC.; and
MICHAEL E. GRAY, individually**

DEFENDANTS

PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER

Plaintiff Consumer Financial Protection Bureau ("Bureau") respectfully moves this Court to enter a Protective Order under Federal Rule of Civil Procedure 26(c) ("Rule 26(c)") prohibiting discovery by Defendants into certain subject matter areas during the depositions of Bureau investigators Ryan Thomas and Theresa Ridder, and the deposition of the Director of the Consumer Finance Division for the Mississippi Department of Banking and Consumer Finance ("DBCF") Taft Webb. In support of this Motion, the Bureau states:

1. With respect to the depositions of Bureau investigators, the Bureau seeks a Protective Order prohibiting inquiry into investigators' recollection of (i) communications with third parties by Bureau investigators or enforcement attorneys, including communications with former employees of Defendants, consumers, other businesses, and the DBCF, (ii) conclusions, observations, and analyses of Bureau investigators or enforcement attorneys resulting from the review of documents and information, as well as the selection of documents and information to review, and (iii)

internal Bureau communications regarding Defendants and the investigation of Defendants. All three of these areas are protected work product, the second two areas are also protected by the deliberative process privilege, and the third area is also protected by the attorney-client privilege. In an August 12, 2016 letter, Defendants provided a list of 37 potential deposition topics.¹ Because there are certain topics proposed by Defendants pursuant to which any testimony by investigators would necessarily fall within one of the three protected areas described above, the Bureau seeks a Protective Order barring inquiry into those topics entirely, specifically **Investigator Topics 5-9 and 11-16**. The Bureau requests that the Protective Order also bar questions relating to these three protected areas under any other topic.

2. In addition, the Bureau seeks a Protective Order barring inquiry into topics proposed by Defendants that have no relevance to any of the claims or defenses in this matter, specifically **Investigator Topics 2-3**.

3. With respect to the deposition of Mr. Webb, the Bureau seeks a Protective Order prohibiting inquiry into Mr. Webb's recollection of communications between the DBCF and the Bureau. Such communications are protected by the Bureau's work product doctrine, deliberative process privilege, attorney-client privilege, and the common interest privilege. As a result, the Bureau seeks a Protective Order barring inquiry into **Webb Topic 15** and any other questions relating to communications between the DBCF and the Bureau.

¹ See Mintz Declaration, Ex. A, ¶ 3, Ex. 2 (Defendants' List of Topics).

4. Because these areas are privileged or not relevant to any claim or defense in this matter, there is good cause for issuance of a Protective Order to avoid undue burden and expense.

For these reasons, and the ones set forth in the Bureau's Memorandum Brief filed contemporaneously with this motion, the Bureau respectfully requests that the Court enter a Protective Order prohibiting inquiry into the following areas during the depositions of Bureau investigators and Mr. Webb:

(A) The following topics and areas for the depositions of Bureau investigators:

- i. Communications with third parties by Bureau investigators or enforcement attorneys, including communications with former employees of Defendants, consumers, other businesses, and the DBCF;
- ii. Conclusions, observations, and analyses of Bureau investigators or enforcement attorneys resulting from the review of documents and information, as well as the selection of documents and information to review;
- iii. Internal Bureau communications regarding Defendants and the investigation of Defendants; and
- iv. **Investigator Topics 2-3, 5-9 and 11-16.**

(B) The following topics and areas for the deposition of Mr. Webb:

- i. **Webb Topic 15;** and
- ii. Any other questions regarding communications between the Bureau and the DBCF.

Dated: August 26, 2016

Respectfully submitted,

CONSUMER FINANCIAL PROTECTION BUREAU

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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2016, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record, including the following:

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